

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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FILTAGREEN INTERNATIONAL, et al.,	)	Case No. 2:16-cv-790- DS
Plaintiffs	)	
vs.	)	MEMORANDUM DECISION AND ORDER
	)	
HARRY DSCHAAK, et al.,	)	
Defendants.	)	

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Defendants' Harry Dschaak and Marie Melonakos-Katas each have filed Motions to Dismiss (Doc. #7 & #9 respectively) for lack of jurisdiction.

In the Amended Complaint Plaintiffs assert both federal question and diversity jurisdiction. Plaintiffs now concede that assertion of federal question jurisdiction was in error. See Mem. Opp'n at 5-6. What remains is for the Court to examine Plaintiffs' claim of diversity of citizenship jurisdiction.

District courts have original jurisdiction of all civil actions "where the matter in controversy exceeds the sum or value of \$75,000 ... and is between ... citizens of different States.." 28 U.S.C. § 1332(a)(1). "Under 28 U.S.C. § 1332(a) the citizenship of all defendants must be different from the citizenship of all plaintiffs." *McPhail v. Deere & Co.*, 529 F.3d 947, 951 (10<sup>th</sup> Cir. 2008). For purposes of § 1332, a corporation is deemed to be a "citizen of every State ... by which it has been incorporated and of the State ... where it has its principal place of business ...." 28 U.S.C. § 1332(c)(1).

Plaintiff Filtagreen International, Inc. is alleged to be incorporated under the laws of Idaho having its principal place of business in Utah. Am. Compl. at 2. Defendant Harry Dschaak is alleged to be a citizen of Idaho. *Id.* at 3. Having its principal place of business in Utah does not undermine the fact that Filtagreen is incorporated in Idaho and is considered a citizen of Idaho for purposes of diversity. Because both Plaintiff Filtagreen and Defendant Dschaak are citizens of Idaho, diversity of citizenship jurisdiction is lacking.

Accordingly, both Motions to Dismiss (Doc. #7 & Doc. #9) are granted and this case is dismissed.

IT IS SO ORDERED.

Dated this 28<sup>th</sup> day of September, 2016

BY THE COURT:

A handwritten signature in black ink, appearing to read "David Sam", written over a horizontal line.

DAVID SAM  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT